

REMARKS

This application has been carefully reviewed in light of the Office Action dated May 11, 2004. A Statement of Common Ownership is being filed concurrently herewith. Applicants respectfully request reconsideration of the above-referenced application in light of the following remarks.

Claims 1-8, 10-15, 17-20, 23-27, and 55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Noble et al. (U.S. Patent No. 5,973,356) ("Noble '356 patent"). The rejection is respectfully traversed.

Applicants respectfully submit that the Noble '356 patent is not prior art under 35 U.S.C. § 102(e). The present application was invented by Wendell P. Noble and Leonard Forbes. The Noble '356 patent also lists Wendell P. Noble and Leonard Forbes as the two inventors. Accordingly, the Noble '356 patent is not a patent granted on an application for patent by another filed in the United States. See M.P.E.P. § 706.02. Therefore, the rejection of claims 1-8, 10-15, 17-20, 23-27, and 55 over this reference under 35 U.S.C. § 102(e) should be withdrawn.

Moreover, Applicants note that the present application is a divisional of U.S. Patent Application No.: 09/076,728, filed on May 13, 1998, which issued as U.S. Patent No.: 6,225,165 on June 29, 2001. Thus, the present application has an effective filing date of May 13, 1998.

Under this circumstance, the Noble '356 patent does not qualify as prior art under § 102(a) since the issue date of the patent occurred after the effective filing date of the present application, which is May 13, 1998, and was also not "known or used by others." The Noble '356 patent also does not qualify as prior art under § 102(b) as it

was not patented more than one year before the effective filing date of the present application. Further, §§ 102(c), 102(d), 102(f), and 102(g) clearly do not apply.

Claims 9 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Noble '356 patent. As noted above, the Noble '356 patent does not qualify as prior art to the present application. Therefore, the rejection of claims 9 and 16 under 35 U.S.C. § 103(a) should be withdrawn.

Claims 28-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Noble '356 patent and further in view of Shirley. As noted above, the Noble '356 patent does not qualify as prior art to the present application. Therefore, the rejection of claims 28-33 under 35 U.S.C. § 103(a) should be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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